

**TOWN OF DAVIE  
TOWN COUNCIL AGENDA REPORT**

**TO:** Mayor and Councilmembers

**FROM/PHONE:** Mark Kutney, AICP, Development Services Director/ (954) 797-1101  
Prepared by Todd Vargo, Planner I

**SUBJECT:** Resolution - Developers Agreement  
DA 3-1-03 Blackhawk Ranches Plat, 4450 Hiatus Road/Generally located on the northeast corner of Hiatus Road and Orange Drive.

**AFFECTED DISTRICT:** District 3

**TITLE OF AGENDA ITEM:** A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA AUTHORIZING THE MAYOR AND THE TOWN ADMINISTRATOR TO ENTER INTO AN AGREEMENT BETWEEN THE TOWN OF DAVIE, BROWARD COUNTY, AND TUSCANY AT DAVIE, LLC FOR THE TRAFFIC SIGNALIZATION AGREEMENT RELATING TO THE BLACKHAWK RANCHES PLAT; PROVIDING FOR THE INSTALLATION OF A TRAFFIC SIGNAL; TO ACKNOWLEDGE SUCH APPROVAL BY AFFIXING THEIR SIGNATURES TO SAID AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE. (DA 3-1-03 Blackhawk Ranches Plat, 4450 Hiatus Road)

**REPORT IN BRIEF:**

On July 3, 2002 Town Council passed Resolution No. R-2002-153, approving a subdivision plat known as the Blackhawk Ranches Plat. In order to satisfy a traffic signal obligation for this plat, the developer is entering into a Traffic Signalization Agreement. The developer has agreed to be responsible for payment to the county the amount of money outlined in the agreement for the installation costs of a traffic signal at Orange Drive and Hiatus Road.

The Town of Davie is party to this Developers Agreement for the purpose of issuing or withholding the issuance of permits for construction of buildings within the property subject to the agreement and for the purpose of issuing or withholding the issuance of certificates of occupancy for the construction of buildings within the property subject to the agreement.

**PREVIOUS ACTIONS:** None

**CONCURRENCES:** None

**FISCAL IMPACT:** None

**RECOMMENDATION:** Staff finds the subject application complete and suitable for transmittal to Town Council for further consideration.

**Attachments:** Resolution, Installation of Required Improvements Agreement, Future Land Use Map, Zoning and Aerial Map

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA AUTHORIZING THE MAYOR AND THE TOWN ADMINISTRATOR TO ENTER INTO AN AGREEMENT BETWEEN THE TOWN OF DAVIE, BROWARD COUNTY, AND TUSCANY AT DAVIE LLC, FOR THE TRAFFIC SIGNALIZATION AGREEMENT RELATING TO THE BLACKHAWK RANCHES PLAT; PROVIDING FOR INSTALLATION OF A TRAFFIC SIGNAL; TO ACKNOWLEDGE SUCH APPROVAL BY AFFIXING THEIR SIGNATURES TO SAID AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Tuscany at Davie, LLC proposes to develop properties known as the Blackhawk Ranches Plat; and

WHEREAS, Broward County requires installation of traffic signalization at Orange Drive and Hiatus Road to satisfy conditions related to the Blackhawk Ranches Plat.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1. The Town Council of the Town of Davie does hereby authorize the Mayor and Town Administrator to enter into an Agreement, attached hereto as Exhibit "A", between Broward County, Tuscany at Davie, LLC, and the Town of Davie, whereby the Town of Davie is party to this agreement solely for the purpose of issuing or withholding the issuance of permits or certificates of occupancy for the construction of buildings within the property subject to this agreement.

SECTION 2. The Town Administrator and Town Attorney are authorized to make and accept non-substantive revisions to the agreement in order for the agreement to be in final, recordable form.

SECTION 3. This Resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2003.

\_\_\_\_\_  
MAYOR/COUNCILMEMBER

Attest:

\_\_\_\_\_  
TOWN CLERK

APPROVED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2003.



Return recorded copy to:

Broward County Engineering Division  
1 North University Drive, Suite 300B  
Plantation, FL 33324-2038

Document prepared by:

David E. Rohal  
CCL Consultants, Inc.  
2200 Park Central Blvd., N., Ste. 100  
Pompano Beach, FL 33064

---

### TRAFFIC SIGNALIZATION AGREEMENT

This is an Agreement, made and entered into by and between: BROWARD COUNTY, a political subdivision of the state of Florida, hereinafter referred to as "COUNTY,"

AND

Tuscany at Davie, LLC, its successors and assigns,  
hereinafter referred to as DEVELOPER,

**[AND IF THE PROPERTY IS LOCATED WITHIN A MUNICIPALITY]**

<sup>TOWN</sup>  
The ~~City~~ of Davie, a municipal corporation, created and existing under the laws of the State of Florida, its successors and assigns, hereinafter referred to as "~~CITY~~." "TOWN".

WHEREAS, Chapter 5, Article IX, Section 5-182(c), Broward County Code of Ordinances, require that access to trafficways be designed to facilitate the safe and efficient movement of vehicles; and

WHEREAS, DEVELOPER'S Project, known as Blackhawk Ranches, Development Management Division File No. 011-MP-02, hereinafter referred to as the "Project," a legal description of which is attached hereto as Exhibit "A" and made a part hereof;" and

WHEREAS, the Project was approved by the COUNTY on January 7, 2003, subject to certain conditions which require the installation of traffic signalization, NOW, THEREFORE,

IN CONSIDERATION of the mutual terms and conditions, promises, covenants and payments hereinafter set forth, the parties hereby agree as follows:

1. The above recitals and representations are true and correct and are incorporated herein.

2. TRAFFIC SIGNAL OBLIGATION.

The DEVELOPER shall be responsible for payment to COUNTY of \$ 66,000.00 for the installation costs of a traffic signal(s) at Orange Drive and Hiatus Road, in accordance with the conditions and time frames set forth in this Agreement.

3. FORM OF SECURITY

**PLEASE CHECK THE APPROPRIATE SECTION BELOW**

☐ (a) Lien.

- (1) A lien is hereby imposed by the COUNTY against the real property identified in Exhibit "A" in the amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_). Such lien shall secure the installation costs of the traffic signal(s) described in paragraph 2 above. Such lien shall exist until fully paid, discharged, released, or barred by law. The lien created by this Agreement shall be superior to and shall have priority over any mortgage on the real property described in Exhibit "A." The DEVELOPER shall cause this Agreement to be executed by the holder of any such mortgage, which execution shall constitute the mortgagee's consent to such subordination.
- (2) Prior to the DEVELOPER obtaining a building permit for construction of any portion of the Project, DEVELOPER shall provide a form of security acceptable to the COUNTY in the form of a letter of credit, surety bond, or other acceptable security in the amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_), in substitution of the lien imposed hereby, and the COUNTY shall cause to be executed and recorded in the Official Records of Broward County a release or satisfaction of the lien upon the property described in Exhibit "A."
- (3) In the event DEVELOPER fails to pay to the COUNTY the sums set forth in paragraph 2 above, COUNTY may recover such outstanding sums from DEVELOPER as are necessary to cause the installation of the traffic signal(s) as set forth in paragraph 2 above. Such sums,

plus costs and attorneys fees, may be recovered by COUNTY against the DEVELOPER through a civil action, or may be recovered by action as provided by the applicable security. In the event that DEVELOPER fails to pay for or install the traffic signal(s) as required in paragraph 2 above, such lien may be foreclosed or otherwise enforced by the COUNTY by action or suit in equity as for the foreclosure of a mortgage on real property.

- (4) DEVELOPER shall ensure that the substitute security remains valid and in full force and effect until DEVELOPER'S obligation to pay for or install the traffic signal(s) are fully performed. Expiration of the security prior to DEVELOPER'S performance of such obligation, or notice to COUNTY that the security will expire or has been canceled or disaffirmed prior to DEVELOPER'S satisfaction of all obligations hereunder, shall constitute a default of this Agreement.
- (5) In the event the letter of credit, surety bond or other form of security provided to COUNTY expires, is canceled, or is disaffirmed, COUNTY shall send notice to DEVELOPER, according to the notice provisions of this Agreement, and DEVELOPER shall have thirty (30) days from the date of such notice to provide substitute security in a form acceptable to COUNTY. If DEVELOPER fails to provide acceptable substitute security, COUNTY may record a document entitled "Notice of Lien for Installation of Traffic Signal(s) Improvements" which shall constitute a lien on the property described in Exhibit "A" for the amount due hereunder, until fully paid, discharged, released or barred by law. To the extent that the failed security is attributable to an identified parcel or portion of the Project, the Notice of Lien for Required Improvements may be recorded against and apply only to such parcel or portion of the Project.

☒ (b) Other Form of Security.

- (1) Prior to the DEVELOPER obtaining a building permit for construction of any portion of the Project, DEVELOPER shall provide a form of security acceptable to the COUNTY in the form of a letter of credit, surety bond, or other acceptable security in the amount of Sixty Six Thousand Dollars (\$66,000.00 ...) secure the installation costs of the traffic signal(s) described in paragraph 2 above.
- (2) In the event DEVELOPER fails to pay to the COUNTY the sums set forth in paragraph 2 above, COUNTY shall be entitled to draw against

the security for the amount set forth above, plus costs and interest as set out herein. If COUNTY draws against the security and the amount recovered is less than the amount due, COUNTY may maintain an action against DEVELOPER in a court of competent jurisdiction for the difference between any sums obtained and the amount due, plus costs and interest accrued from the due date at the rate of twelve (12) per cent per annum.

- (3) DEVELOPER shall ensure that the substitute security remains valid and in full force and effect until DEVELOPER'S obligation to pay for or install the traffic signal(s) are fully performed. Expiration of the security prior to DEVELOPER'S performance of such obligation, or notice to COUNTY that the security will expire or has been canceled or disaffirmed prior to DEVELOPER'S satisfaction of all obligations hereunder, shall constitute a default of this Agreement.
  - (4) In the event the letter of credit, surety bond or other form of security provided to COUNTY expires, is canceled, or is disaffirmed, COUNTY shall send notice to DEVELOPER, according to the notice provisions of this Agreement, and DEVELOPER shall have thirty (30) days from the date of such notice to provide substitute security in a form acceptable to COUNTY. If DEVELOPER fails to provide acceptable substitute security, COUNTY may record a document entitled "Notice of Lien for Installation of Traffic Signal(s) Improvements" which shall constitute a lien on the property described in Exhibit "A" for the amount due hereunder, until fully paid, discharged, released or barred by law. To the extent that the failed security is attributable to an identified parcel or portion of the Project, the Notice of Lien for Required Improvements may be recorded against and apply only to such parcel or portion of the Project.
- 4. If the property is secured by a lien and is located within a municipality, CITY agrees not to issue building permits for construction of a principal building within the Project until such time as DEVELOPER provides CITY with written confirmation from COUNTY that DEVELOPER has complied with paragraph 3(a)(2) of this Agreement. If the property is located within the unincorporated area, COUNTY shall not issue any building permits for construction of a principal building within the Project until such time as DEVELOPER has complied with paragraph 3(c) of this Agreement.
  - 5. If the property is located within a municipality, the parties hereto agree that, except as may otherwise be provided herein, the CITY is a party to this Agreement solely for the purpose of issuing or withholding the issuance of permits for the construction

remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving notice:

For the COUNTY:

Director of the Broward County Traffic Engineering Division  
2300 W. Commercial Boulevard  
Fort Lauderdale, FL 33309

For the DEVELOPER:

Tuscany at Davie, LLC  
-----  
2852 University Drive  
-----  
Coral Springs, FL 33065  
-----

For the CITY if the property is located within a municipality:

Town of Davie  
-----  
6591 Orange Drive  
-----  
Davie, FL 33314  
-----

11. RELEASE. When all of the obligations set forth herein are fully paid and performed, COUNTY, at the request of DEVELOPER or its successor and upon payment of any applicable fees, shall cause a release to be recorded in the Official Records of Broward County, Florida, evidencing such performance. To the extent that the obligations set forth herein are divisible and attributable to a specific parcel or portion of the Project, COUNTY may grant a partial release of this agreement for a specific parcel or portion of the Project for which this traffic signalization obligation has been satisfied.
12. VENUE; CHOICE OF LAW. Any controversies or legal issues arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State Courts of the Seventeenth Judicial Circuit of Broward County, Florida, the venue sitis, and shall be governed by the laws of the State of Florida.
13. CHANGES TO FORM AGREEMENT. DEVELOPER represents and warrants that there have been no amendments or revisions whatsoever to the form Agreement



without the prior written consent of the County Attorney's Office. Any unapproved changes shall be deemed a default of this Agreement and of no legal effect.

14. CAPTIONS AND PARAGRAPH HEADINGS. Captions and paragraph headings contained in this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope or intent of this Agreement, nor the intent of any provisions hereof.
15. NO WAIVER. No waiver of any provision of this Agreement shall be effective unless it is in writing, signed by the party against whom it is asserted, and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed to be a continuing or future waiver.
16. EXHIBITS. All Exhibits attached hereto contain additional terms of this Agreement and are incorporated herein by reference. Typewritten or handwritten provisions inserted in this Agreement or attached hereto shall control all printed provisions in conflict therewith.
17. FURTHER ASSURANCES. The parties hereby agree to execute, acknowledge and deliver and cause to be done, executed, acknowledged and delivered all further assurances and to perform such acts as shall reasonably be requested of them in order to carry out this Agreement.
18. ASSIGNMENT AND ASSUMPTION. DEVELOPER may assign all or any portion of its obligations pursuant to this Agreement to a grantee of the fee title to all or any portion of the property described in Exhibit "A." DEVELOPER agrees that any assignment shall contain a provision which clearly states that such assignment is subject to the obligations of this Agreement.
19. AMENDMENTS. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by the parties to this Agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have made and executed this Agreement on the respective dates under each signature: BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Chair or Vice Chair, authorized to execute same by Board action on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, Tuscany at Davie LLC, signing by and through its \_\_\_\_\_, duly authorized to execute same and if applicable the CITY of <sup>TOWN</sup> Davie \_\_\_\_\_, signing by and through its \_\_\_\_\_, duly authorized to execute same..

COUNTY

ATTEST:

BROWARD COUNTY, through its  
BOARD OF COUNTY COMMISSIONERS

\_\_\_\_\_  
County Administrator and Ex-  
Officio Clerk of the Board  
of County Commissioners of  
Broward County, Florida

By \_\_\_\_\_  
\_\_\_\_\_, Chair

\_\_\_\_ day of \_\_\_\_\_, 20\_\_

Approved as to form by  
Office of County Attorney  
Broward County, Florida  
Governmental Center, Suite 423  
115 South Andrews Avenue  
Fort Lauderdale, Florida 33301  
Telephone: (954) 357-7600  
Telecopier: (954) 357-6968

By \_\_\_\_\_  
Assistant County Attorney

\_\_\_\_ day of \_\_\_\_\_, 20\_\_

Witnesses:

(Signature) \_\_\_\_\_  
Print name: \_\_\_\_\_

(Signature) \_\_\_\_\_  
Print name: \_\_\_\_\_

Name of Developer (Individual) \_\_\_\_\_

(Signature) \_\_\_\_\_  
Print name: \_\_\_\_\_  
Print address: \_\_\_\_\_  
\_\_\_\_ day of \_\_\_\_\_, 20\_\_

**ACKNOWLEDGMENT - INDIVIDUAL**

STATE OF )  
              ) SS.  
COUNTY OF )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_ who is  
☐ personally known to me, or  
☐ produced identification. Type of identification produced \_\_\_\_\_.

(Seal)

NOTARY PUBLIC:  
\_\_\_\_\_  
Print name: \_\_\_\_\_

My commission expires: \_\_\_\_\_

9

DEVELOPER-CORPORATION/PARTNERSHIP

WITNESSES:

AS TO BOTH  
Print name: PATRICIA R. HARRIS

AS TO BOTH  
Print name: ZANDRA VANN

TUSCANY AT DAVIE, LLC  
a Florida limited liability company

By: Martz Enterprises, Inc. Profit  
Sharing Plan and Trust u/a/d 1/1/86,  
Member

By: [Signature] 02/13/03  
Ben L. Martz, Trustee Date

By: [Signature] 02-13-03  
David Levine, Member Date

2852 University Drive  
Coral Springs, FL 33065

(CORPORATE SEAL)

ACKNOWLEDGEMENT: CORPORATION/PARTNERSHIP

STATE OF FLORIDA )  
COUNTY OF BROWARD ) SS

The foregoing instrument was acknowledged before me this 13<sup>th</sup> day of February, 2003, by Ben L. Martz, as Trustee of the Martz Enterprises, Inc. Profit Sharing Plan and Trust u/a/d/ 1/1/86 and David Levine, as the Members of the Tuscany at Davie, LLC, a Florida limited liability company, on behalf of the limited liability company. They are:

☒ personally known to me, or  
☐ produced identification. Type of identification produced:

\_\_\_\_\_ and \_\_\_\_\_

(Seal)

PATRICIA R. HARRIS  
Notary Public - State of Florida  
My Commission Expires 07/11/04

NOTARY PUBLIC:

My commission expires:

[Signature]  
Print name: PATRICIA R. HARRIS

CAF#456  
01/01/02



**MORTGAGEE-CORPORATION/PARTNERSHIP**

Mortgagee, being the holder of a mortgage relating to the parcel(s) described in Exhibit "A" hereby consents and joins in for the purpose of agreeing that its mortgage shall be subordinated to the foregoing Agreement.

Witnesses (if partnership):

\_\_\_\_\_  
(Signature)  
Print name:\_\_\_\_\_

\_\_\_\_\_  
(Signature)  
Print name:\_\_\_\_\_

\_\_\_\_\_  
Name of Mortgagee (corporation/partnership)

By \_\_\_\_\_  
(Signature)  
Print name:\_\_\_\_\_  
Title:\_\_\_\_\_  
Address:\_\_\_\_\_

\_\_\_\_ day of \_\_\_\_\_, 20\_\_

ATTEST (if corporation):

\_\_\_\_\_  
(Secretary Signature)  
Print Name of Secretary:\_\_\_\_\_

(CORPORATE SEAL)

**ACKNOWLEDGMENT - CORPORATION/PARTNERSHIP**

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) SS.

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_, as \_\_\_\_\_ of \_\_\_\_\_, a \_\_\_\_\_ corporation/partnership, on behalf of the corporation/ partnership. He or she is:  
☐ personally known to me, or  
☐ produced identification. Type of identification produced \_\_\_\_\_.

NOTARY PUBLIC:

(Seal)

My commission expires:

\_\_\_\_\_  
Print name:\_\_\_\_\_

CITY  
(If Property is located within a City)

WITNESSES:

TOWN  
~~CITY~~ of Davie

\_\_\_\_\_

By \_\_\_\_\_  
Mayor-Commissioner

\_\_\_\_\_

\_\_\_\_ day of \_\_\_\_\_, 20\_\_

ATTEST:

\_\_\_\_\_  
~~City~~ Clerk  
TOWN

By \_\_\_\_\_  
~~City~~ Manager  
TOWN  
\_\_\_\_ day of \_\_\_\_\_, 20\_\_

APPROVED AS TO FORM:

By \_\_\_\_\_  
~~City~~ Attorney  
TOWN

## EXHIBIT "A"

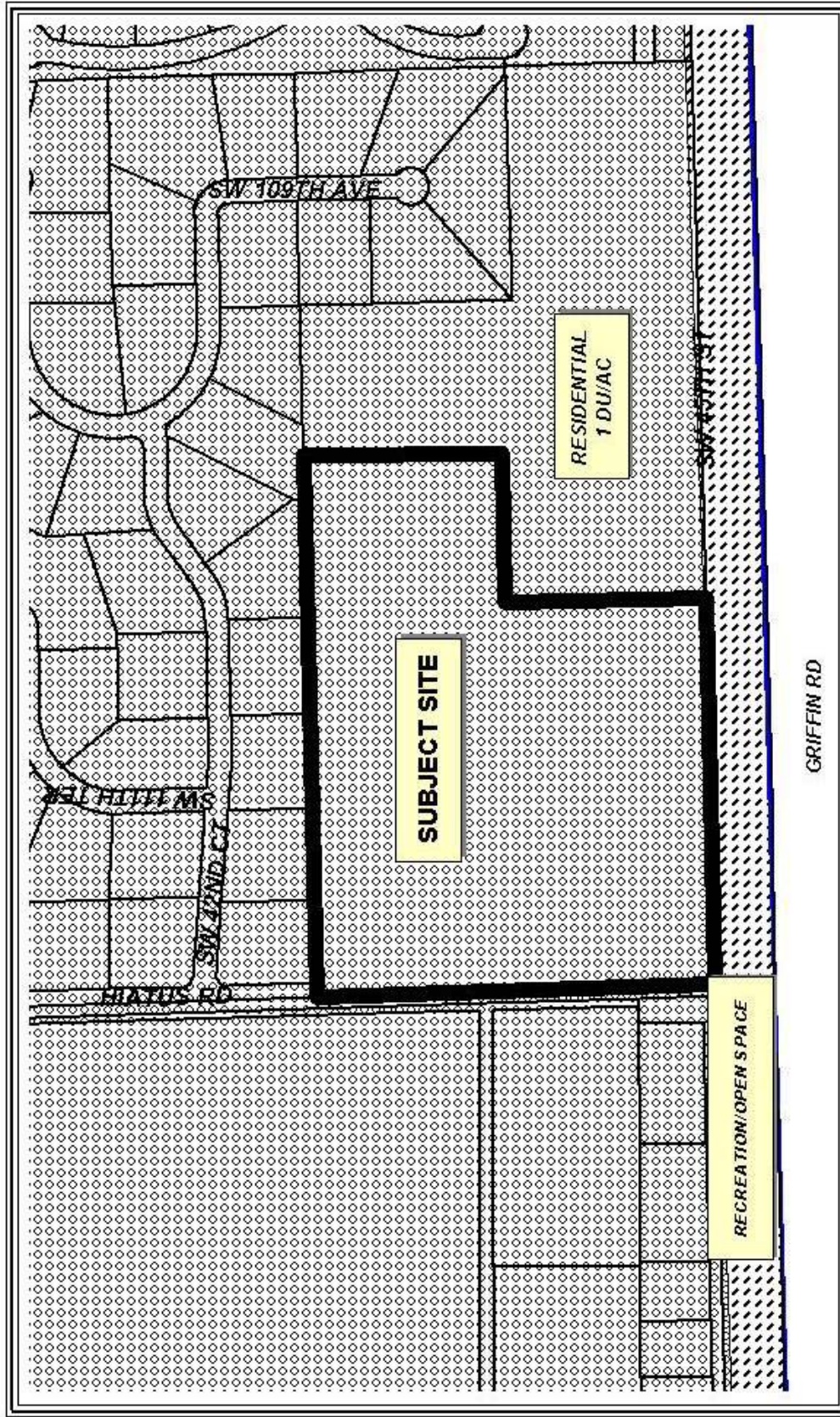
### **LEGAL DESCRIPTION:**

A portion of Block 3, MARTHA BRIGHT FARMS, according to the Plat thereof, as recorded in Plat Book 15, at Page 16, of the Public Records of Broward County, Florida, and being more particularly described as follows:

BEGINNING at the Southwest corner of said Block 3; Thence North 01°46'58" West, along the West boundary of said Block 3, for 855.00 feet; Thence North 88°29'02" East, along the South boundary of "LAWSON ISLES", according to the Plat thereof, as recorded in Plat Book 84, at Page 46 of the Public Records of said Broward County, for 1,161.10 feet; Thence South 01°46'58" East, for 425.73 feet; Thence South 88°29'02" West, for 325.39 feet; Thence South 01°46'58" East, for 429.27 feet; Thence South 88°29'02" West, along the Northerly Right-of-Way line of Orange Drive, recorded in Official Records Book 13083, at Page 977 of the Public Records of said Broward County, for 835.71 feet to the POINT OF BEGINNING.

Said lands lying and situate in the Town of Davie, Broward County, Florida, and containing 19.583 acres, more or less.





**DEVELOPER'S AGREEMENT**

**DA 2-2-03**

**Future Land Use Map**



Prepared by: ID

Date: Prepared: 2/27/03

N





300 0 300 600 Feet

**Planning & Zoning Division - GIS**



